

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

IN THE MATTER OF THE TRACKING) MISC. NO.: 2:23-cr-00412
OF THE TARGET CELL PHONE)
NUMBER PARTICULARLY)
DESCRIBED IN ATTACHMENT A TO)
THE AFFIDAVIT OF ATF SPECIAL)
AGENT DON BERLIN, DATED MAY)
4, 2023)

MOTION TO SEAL

The United States of America, by and through its undersigned Assistant United States Attorney, hereby moves this Court to seal the affidavit in support of the tracking warrant and the attachments thereto, as well as the return to the warrant identifying any evidence seized. The Court has the inherent authority to seal these documents. *See Baltimore Sun v. Goetz*, 886 F. 2d 60 (4th Cir. 1988). The purpose of the Government's request is to protect the information contained within these documents and to avoid the disclosure of the investigation at this time.

Based on the facts in the affidavit, there is reason to believe that disclosure of the information in these documents would seriously jeopardize the investigation including by giving targets the opportunity to destroy or tamper with evidence, change patterns of behavior, flee from prosecution, intimidate cooperating and potential witnesses, and endanger the safety of law enforcement and other individuals. For these reasons, the Government submits that the interests in sealing the affidavit and attachments thereto and the return outweigh the common-law public right of access and that sealing is "essential to preserve higher values." *See Media Gen. Operations, Inc. v. Buchanan*, 417 F.3d 424, 429-31 (4th Cir. 2005). The Government further submits that, by sealing only the affidavit in support of the tracking warrant, attachments thereto, and the return while

providing public access to the tracking warrant, the application in support of the tracking warrant, the motion to seal and the sealing order, the denial of access is narrowly tailored to serve the Government's interests in sealing. *Id.* at 429.

Based on the foregoing, the Government requests that the affidavit in support of the tracking warrant and attachments thereto, as well as the return, be filed under seal except that working copies should be made available to the United States Attorney's Office, the ATF, and any other law enforcement agency designated by the United States Attorney's Office.

RESPECTFULLY SUBMITTED,

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May 4, 2023